EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2007-0893-MWD-E **TCEQ ID:** RN102916178 **CASE NO.:** 33706

RESPONDENT NAME: Trinity @ Windfern LLC

ORDER TYPE:		
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
_AMENDED ORDER	_EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
X WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
approximately 3 miles north of the intersection to the intersection in the intersectio	re are no complaints. There is no record of addition than the ED and the Respondent has expressed an integister comment period expired on November 12, 200 or: None r. Mr. J. Craig Fleming, Enforcement Division, Enforcement Division, MC 219, (512) 239-2171	cal pending enforcement actions regarding this erest in this matter. On the comments were received. On the comments were received.
Texas 77057	Majority Partnership Owner, Trinity @ Windfern LI esented by counsel on this enforcement matter	.C, 5909 Woodway Place Court, Houston,
Respondent s Actorney. Not repr	escribed by counsel on this emotection matter	
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RESPONDENT NAME: Trinity @ Windfern LLC DOCKET NO.: 2007-0893-MWD-E

VIOLATION SUMMARY CHART:

CORRECTIVE ACTIONS **VIOLATION INFORMATION** PENALTY CONSIDERATIONS stresto er rainibilitat indicativi TAKEN/REQUIRED to at / Type of Investigation: Total Assessed: \$12,390 **Corrective Actions Taken:** Complaint X Routine Total Deferred: \$2,478 The Executive Director recognizes that ___ Enforcement Follow-up the Respondent has implemented the X Expedited Settlement following corrective measures at the Records Review Facility: Financial Inability to Pay Date(s) of Complaints Relating to this Case: None SEP Conditional Offset: \$0 a. The sludge in the chlorine basin was removed by pumping on April 5, 2007; Total Paid (Due) to General Revenue: \$6,372 Date of Investigation Relating to this b. The Respondent flushed the lift pump (remaining \$3,540 due in 1 monthly payment) Case: March 27, 2007 and backwashed the solids back into the Site Compliance History Classification clarifier by April 12, 2007; and Date of NOV/NOE Relating to this Case: May 21, 2007 (NOE) High X Average Poor c. The Respondent submitted the missing records for the year 2005 including but Background Facts: This was a routine Person Compliance History Classification not limited to DMRs, laboratory reports, investigation. High X Average Poor annual sludge reports for 2005-2006, and the 2006 TCLP test results. Major Source: Yes X No WATER **Ordering Provisions:** 1) Failed to collect effluent samples at the Applicable Penalty Policy: September 2002 frequency specified in the permit. The Order will require the Respondent to: Specifically, a review of records at the time of the investigation revealed 7 weekly sampling events in the months of March, a. Within 30 days after the effective date of this Agreed Order: April, May, and June, 2006 were not taken [30 Tex. ADMIN. CODE § 319.5(b), and i. Implement a procedure whereby the Texas Pollutant Discharge Elimination effluent samples are being collected at the System ("TPDES") Permit No. WQ0013509001, Effluent Limitations and required frequency; and Monitoring Requirements No. 1]. ii. Implement a procedure whereby the appropriate records are appropriately 2) Failed to make available all discharge maintained. monitoring records for review.' Specifically, the following records were not available for b. Within 45 days after the effective date review at the investigation: discharge of this Agreed Order: monitoring reports ("DMRs") for 2005, laboratory reports for 2005, annual sludge reports for 2005-2006, and the 2006 i. Submit documentation of the corrective toxicity characteristic leaching procedure actions taken to clean the receiving ditch; ("TCLP") test results [30 Tex. ADMIN. and CODE § 319.7(c)]. ii. Submit documentation on procedures 3) Failed to operate and maintain the taken to prevent the recurrence of any Facility to prevent the discharge and discharges of solids to the receiving accumulations of sludge in the receiving ditch. stream. Specifically, sludge was noted in the roadside outfall ditch for approximately c. Within 60 days after the effective date 200 feet downstream of the outfall. of this Agreed Order, submit written Samples taken from the outfall ditch certification and include detailed contained a carbonaceous biochemical supporting documentation including oxygen demand concentration of 159 photographs, receipts, and/or other milligrams per liter ("mg/L"), a total records to demonstrate compliance with suspended solids concentration of 7,120 Ordering Provisions a. and b.

RESPONDENT NAME: Trinity @ Windfern LLC **DOCKET NO.:** 2007-0893-MWD-E

Page 3 of 3

mg/L, a volatile suspended solids concentration of 3,030 mg/L, and an ammonia-nitrogen concentration of 4.8 mg/L [Tex. WATER CODE § 26.121(a), 30 Tex. ADMIN. CODE § 305.125(1), (4), and (5), and TPDES Permit No. WQ0013509001, Permit Conditions 2.d.].		
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Additional ID No(s).: WQ0013509001

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Policy Revision 2 (Sep.	Penalty Calculation	n Worksheet (P	•	n May 25, 2007
Folicy Revision 2 (Sept	ember 2002)		7 OW Neviale	11 Way 20, 2007
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FCW.	13-Feb-2006 3creening	LFA Due)
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	Trinity @ Windfern LLC			7
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CASE INFORMATION	00700	To all the section of	In	_
Enf./Case ID No.		No. of Violations		
	2007-0893-MWD-E	Order Type		
Media Program(s)	Water Quality	Enf. Coordinator		
Multi-Media		EC's Team	EnforcementTeam 3	<u></u>
Admin. Penalty \$ I	imit Minimum \$0 Maximum	\$10,000		
	Penalty Calcula	tion Section		
TOTAL BASE PENAL	TY (Sum of violation base penaltie	s)	Subtotal 1	\$7,000
		The second control of		
ADJUSTMENTS (+/-)	TO SUBTOTAL 1			
	ned by multiplying the Total Base Penalty (Subtotal 1) by	the indicated percentage.		
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PAYABLE PENALTY				\$9,912

Screening Date 6-Jun-2007

Docket No. 2007-0893-MWD-E

PCW

Respondent Trinity @ Windfern LLC

Case ID No. 33706

Reg. Ent. Reference No. RN102916178

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Policy Revision 2 (September 2002) PCW Revision May 25, 2007

omp	Component	Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.	
	NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	10	50%	
	3	Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	2% 0%	
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		25%	
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	(1,3413) (1,343) O	0%	
	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	ed Majora, Post V	0%	
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%	
	Emissions	Chronic excessive emissions events (number of events)	0	0%	
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	t egalligi eg l o uddou	0%	
	Professional Control of the Control	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%	
		Plea	se Enter Yes or No		
		Environmental management systems in place for one year or more	No	0%	
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
	Outo	Participation in a voluntary pollution reduction program	No	0%	
		Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	
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epe	at Violator (Su	btotal 3)	Comments of the state of	18022-TO	
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omi	pliance History	TO THE PARTY OF THE PARTY OF THE PROPERTY OF THE PARTY OF			
	Compliance History Notes	A 77% enhancement is recommended for having one agreed order without denial, ten NO violations, and one NOV for non-similar violations.	Vs for similar		

>> Environmental, Property and Human Health Matrix Release	Scre	ening Date	6-Jun-2007		Docke	t No. 2007-0893-MWD-E	PCW
Reg. Ent. Reference No. RN102916178 Media [Statute] Water Quality Enf. Coordinator J. Craig Fleming Violation Number Rule Cite(s) 30 Tex. Admin. Code § 319.5(b), and TPDES Permit No. W00013509001, Effluent Limitations and Monitoring Requirements, No. 1 Failed to collect offluent samples at the frequency specified in the permit. Specifically, Violation Description Failed to collect offluent samples at the frequency specified in the permit. Specifically, In the months of March, April, May, and June, 2006 were not taken. Base Penalty \$10,000 **Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor Percent 5% **Programmatic Matrix Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. **Violation Events** Number of Violation Events 7 119 Number of violation days daily monthly semiannual annual single event x Seven events (one for esch missed weekly sampling event) are recommended. Economic Benefit (EB) for this violation Estimated EB Amount \$1,743 Violation Final Penalty Total \$6,164		-		dfern LLC			Policy Revision 2 (September 2002)
Media [Statute] Water Quality Enf. Coordinator J. Craig Fleming Violation Number Rule Cite(s) 30 Tex. Admin. Code § 319.5(b), and TPDES Permit No. WC0013509001, Effluent Limitations and Monitoring Requirements, No. 1 Limitations and Monitoring Requirements, No. 1 Limitations and Monitoring Requirements, No. 1 Violation Description a review of records at the time of the investigation revealed 7 weekly sampling events in the months of March, April, May, and June, 2006 were not taken. Base Penalty \$10,000 Statutory Limit Test Willoation Description Release Major Moderate Minor Actual Potential X Percent 5% Percent 5% Percent 5% Percent 5% Percent 0% Human health of the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. Violation Events Number of Violation Events 7 119 Number of violation days didity worthly semianoual annual single event X Seven events (one for each missed weekly sampling event) are recommended. Economic Benefit (EB) for this violation Estimated EB Amount \$1,743 Violation Final Penalty Total 38,156		Case ID No.	33706				PCW Revision May 25, 2007
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Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Suppiles/equipment			ed costs before e	0.0 0.0 0.0 NA ntering 0.0 0.0 2.0	\$0 \$0 \$0 \$1 \$0 \$1 \$1 \$1 \$0 \$0 \$83 \$0	n/a n/a n/a n/a nne-time avoided c \$0 \$0 \$1,660 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$1,743 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			ed costs before e	0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 ***************************	n/a n/a n/a n/a n/a n/a n/a so so so so so so so so so so so so so	\$0 \$0 \$0 \$0 \$0 \$1,743 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Suppiles/equipment			ed costs before e	0.0 0.0 0.0 NA ntering 0.0 0.0 2.0	\$0 \$0 \$0 \$1 \$0 \$1 \$1 \$1 \$0 \$0 \$83 \$0	n/a n/a n/a n/a nne-time avoided c \$0 \$0 \$1,660 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$1,743 \$0

Screening Dat	e 6-Jun-2007	Docket N	lo. 2007-0893-MWD-E	PCW
Responder	nt Trinity @ Windfern LLC		F-	Policy Revision 2 (September 2002)
Case ID No				PCW Revision May 25, 2007
Reg. Ent. Reference No	c. RN102916178			
Media [Statute				•
Enf. Coordinate				
Violation Numb				
Rule Cite(s)	30 Tex. Admin. Code §	319.7(c)	
Violation Description	records were available monitoring reports (DMF	from the year 2005 for reverse for 2005, laboratory rep	records for review. Specifically, view at the investigation: dischar orts for 2005, annual sludge rep iic leaching procedure (TCLP) to	rge Dorts
·			Base Pe	nalty \$10,000
>> Environmental, Property	and Human Health M	atrix		BOTTOLOGICA
	Harm	TO SERVICE SECTION AND AND AND AND AND AND AND AND AND AN		-
Releas OR Actu		Minor	,	
Potenti			Percent 0%	
1 Otern				
>>Programmatic Matrix	A wang sa Sasa	AMARY SERVICE		
Falsificatio	n Major Moderate	<u>Minor</u>	-	
ansir a second	X		Percent 10%	
		,		
Matrix Notes	100% of	the rule requirement was n	ot met.	
61.000			Adjustment \$	9,000
			Anna Carlo Car	21000
				\$1,000
Violation Events	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	A CHARLIST THE PARTY OF THE PAR	PARTICLE OF THE PARTY OF THE PARTY OF THE PARTY.	
Property Cont. Con				Market to take of
Number of	Violation Events 1	71	Number of violation days	
			e e	-
	daily			
	monthly		Violation Base Pe	enalty \$1,000
mark only on with an x	e quarterly semiannual		Violation Base i c	narry
	annual			
	single event x			
	One	single event is recommend	led.	
Economic Benefit (EB) for	this violation		Statutory Limit Test	
Estima	ted EB Amount	\$150	Violation Final Penalty	Total \$1,770
		This violation Final Ac-	sessed Penalty (adjusted for l	imits) \$1,770
		inis violation rinal As	sesseu Felially (aujusteu for i	mmeajΨ1,110

Violation No.	Water Quality					Percent Interest	Years of Depreciation
	2				- CONTRACTOR CONTRACTOR	5.0	Depreciation 1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description				118	merest saved	Offerine Costs	EB Alliount
Delayed Costs	r weed 2009 Francisco					7 7	
Equipment		r yr renete r oldu daga medini iku sa shi	<u> </u>	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	serial attitudada et sa		بعث خان بالنظيف	0.0	\$0	\$0	\$0
Land	•			0.0	\$0	n/a	\$0
Record Keeping System	\$1,000	1-Jan-2005	1-Jan-2008	3.0	\$150	n/a	\$150
Training/Sampling	internal control of the			0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs Other (as needed)				0.0	\$0 \$0	n/a n/a	\$0 \$0
	erbejoren - han alle			A A PART TO	ga paja par est girak sak sak sak sa ja Di	eactive Saltemanners in he	**********
Notes for DELAYED costs						rievable, and timely	
Notes for DELAYED costs	Date Required	d was the first day o	f the reporting tim	ne period	. The Final Date i	s the expected date	of compliance
Avoided Costs	Date Required	d was the first day o	f the reporting tim	ne period entering	. The Final Date i	s the expected date one-time avoided c	of compliance.
Avoided Costs	Date Required	d was the first day o	f the reporting tim	ne period	. The Final Date i	s the expected date one-time avoided c	of compliance. osts)
Avoided Costs Disposal Personnel	Date Required	d was the first day o	f the reporting tim	entering 0.0 0.0	The Final Date i	s the expected date one-time avoided c \$0 \$0	of compliance. osts) \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	Date Required	d was the first day o	f the reporting tim	entering 0.0 0.0 0.0	The Final Date i item (except for \$0 \$0 \$0	s the expected date one-time avoided c	of compliance. osts)
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Suppiles/equipment	Date Required	d was the first day o	f the reporting tim	entering 0.0 0.0	The Final Date i	s the expected date one-time avoided c \$0 \$0 \$0 \$0	of compliance. osts) \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Suppiles/equipment Financial Assurance [2]	Date Required	d was the first day o	f the reporting tim	entering 0.0 0.0 0.0 0.0	The Final Date i item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	s the expected date one-time avoided c \$0 \$0 \$0 \$0 \$0	of compliance. s0 s0 s0 s0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Suppiles/equipment	Date Required	d was the first day o	f the reporting tim	entering 0.0 0.0 0.0 0.0 0.0 0.0	The Final Date i item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0	s the expected date one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0	of compliance. s0 s0 s0 s0 s0 s0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Date Required	d was the first day o	of the reporting timed costs before a	ne period entering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0	The Final Date i item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	s the expected date one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	of compliance. \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

Scre	eening Date 6-Jun-2007		Docket No. 2007-0893-MWD-E	PCW
F	Respondent Trinity @ Wind	fern LLC		Policy Revision 2 (September 2002)
	Case ID No. 33706			PCW Revision May 25, 2007
Reg. Ent. Re	ference No. RN102916178		•	
Med	dia [Statute] Water Quality			
Enf. (Coordinator J. Craig Flemi	ng		
Viol	ation Number 3			
	Rule Cite(s) Tex. Water		c. Admin. Code § 305.125(1), (4), a 013509001, Permit Conditions 2.d.	nd (5), and
Violatio	on Description of sludge in to ditch for ap outfall ditch 159 mg/L, a	he receiving stream. Spec proximately 200 feet down contained a carbonaceous total suspended solids col	ility to prevent the discharge and actifically, sludge was noted in the roastream of the outfall. Samples takes biochemical oxygen demand connecentration of 7,120 mg/L, a volatile an ammonia-nitrogen concentration	adside outfall en from the centration of e suspended
	Land to the state of the state	,		Base Penalty \$10,000
>> Environmenta	l, Property and Human			
i de la companya di salah di	Release Major	Harm Moderate Minor		
OR	Actual	x	7	AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA
	Potential		Percent 25	5%
			######################################	
>>Programmatic		Modorato Minor	kon kon 11. oktobro 12. oktobr	,
A Pully Times	Falsification Major	Moderate Minor	Percent	0%
	<u> </u>			
Matrix Notes	Human health or the enviro	nment has been exposed the violat	to significant amounts of pollutants tion.	as a result of
			Adjustment	\$7,500
				\$2,500
Violation Events		ne de la companya de La companya de la co	nette obrigggneten i Horderkini bil Alberte	Tipe Samuel
	Number of Violation Events	1	71 Number of violation	n days
	daily monthly mark only one quarterly with an x semiannual	X	Violation	Base Penalty \$2,500
	annual single event			
		mmended from the date o to the date of screening		
Economic Benef	it (EB) for this violation		Statutory Limit	
	Estimated EB Amount	\$5	Violation Final	Penalty Total \$4,425
		This violation	on Final Assessed Penalty (adjus	ted for limits) \$4,425

	344W E	conomic E	Benefit W	orks	sheet 🌣 🕬	r <mark>A. 198</mark> kirjaday († 1741	
Respondent Case ID No.	Trinity @ Wind	fern LLC				A CONTRACTOR OF THE CONTRACTOR	
Reg. Ent. Reference No. Media Violation No.	Water Quality				97 ·	Percent Interest	Years of Depreciation
				Liber	1-6. VARA 124. S	5.0	15
B reliably found.	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Önetime Costs	EB Amount
Item Description		Britis V		karmikisi ka	madandravi (57) Z		
12 w 64 51 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1			ALCOHOLOGY OF THE STATE OF THE		New Control of the Co		
Delayed Costs		planting endings in the	intal california	u m	KIRTER STORE BELLEVILLE		
Equipment :			in heal made his	0.0	\$0	\$0	\$0
Buildings	the state of the state of		. Caldidate says	0,0	\$0	\$0	\$0
Other (as needed)			عاد عجمال الماليني	0.0	\$0	\$0	\$0
Engineering/construction			المتحدث المستوال والمراجع	0.0	\$0	\$0	\$0
Land			The state of the s	0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs		La description of the second o	وأراح فنتراس التاعطية	0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	27-Mar-2007	1-Jan-2008	0.8	\$58	n/a	\$58
Notes for DELAYED costs	solids to the re	ceiving stream, The	e Date Required the expect	was the o	day the violation w of compliance.	he recurrence of an as first observed. T	he Final Date is
Avoided Costs	ANN	IUALIZE [1] avoide	d costs before e			one-time avoided c	
Disposal	n pale e a			0.0	\$0	\$0	\$0
. Personnel		وفكسوينا وسيفظ وكالنائل فيجيب		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0 11111
Supplies/equipment	ikishuli kan ing mengangan dan da	late a contractor in pay of large de-		0.0	\$0	\$0:	\$0
Financial Assurance [2]		Links in the state of the state	واستداراته فيتشم	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0,0	\$0	\$0	\$0
Other (as needed)	Adapti categories	البحيس حصيال		0.0	\$0	\$0	\$0
Notes for AVOIDED costs				NA	estant no englis	a made nearest	epartel
Approx, Cost of Compliance		\$1,500			TOTAL		\$58

Compliance History

Customer/Respondent/Owner-Operator:

CN601719776

Trinity @ Windfern LLC

Classification: AVERAGE

Rating: 12.15

Regulated Entity:

RN102916178

WINDFERN MHP

Classification: AVERAGE

Site Rating: 12.15

ID Number(s):

WASTEWATER

PERMIT

WQ0013509001

Location:

WASTEWATER

PERMIT

TPDES0092746

WASTEWATER

PERMIT

TX0092746

LICENSE

WQ0013509001

WASTEWATER LICENSING

9401 Windfern Road approximately 300 feet south of Rating Date: September 01 06 Repeat Violator: Zaka Road and approximately 3 miles north of the

intersection of Windfern Road and U.S. Highway 290

in Harris County, Texas

TCEQ Region:

REGION 12 - HOUSTON

Date Compliance History Prepared:

June 01, 2007

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

June 01, 2002 to June 01, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

В.

J. Craig Fleming

Phone:

(512) 239-5806

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

Yes

2. Has there been a (known) change in ownership of the site during the compliance period?

Yes

3. If Yes, who is the current owner?

Trinity @ Windfern LLC

4. if Yes, who was/were the prior owner(s)?

The Windfern Corporation

5. When did the change(s) in ownership occur?

19-Jun-03

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/22/2002

ADMINORDER 2001-1212-MWD-E

Classification: Major

Citation:

TWC Chapter 26 26.121

Ramt Prov: 2 PERMIT

Description: Failed to properly operate and maintain the Facility, which resulted in an accumulation of

solids, downstream of the discharge point.

Classification: Moderate

30 TAC Chapter 305, SubChapter F 305.125[G]

Rqmt Prov: OR item 1 PERMIT

Description: Failed to operate the Facility according to permit requirements in which the in-ground 0.0135 MGD treatment plant was severely corroded and the aeration basin and digester were not level.

Classification: Major

Citation:

30 TAC Chapter 317 317.7(i)

Description: Failed to install a backflow preventer and an atmospheric breaker on the potable water

line coming into the Facility to protect the potable water being supplied to the Facility.

Classification: Moderate

30 TAC Chapter 317 317.3(b)(1)

Description: Failed to provide a back-up pump for the lift station.

Classification: Moderate

30 TAC Chapter 317 317.2(d)(5)(D) Citation:

Ramt Prov: ELMR, item 7 PERMIT

Description: Failed to maintain permit effluent limits and to provide adequate treatment so as to ensure

that the effluent meets the permit standards.

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

```
1 11/13/2002
                   (15925)
2 01/17/2003
                   (20826)
3 01/29/2003
                    (214654)
4 03/21/2003
                    (214641)
5 03/21/2003
                    (214640)
6 03/27/2003
                    (247457)
   04/30/2003
                    (319175)
   05/29/2003
                    (319178)
9
   06/23/2003
                    (319180)
10 08/29/2003
                    (319183)
11 09/25/2003
                    (319185)
12
   10/23/2003
                    (319186)
13 11/26/2003
                    (319187)
   01/08/2004
                    (319188)
15 01/22/2004
                    (319189)
16 02/27/2004
                    (319172)
17 03/22/2004
                    (319174)
18 04/22/2004
                    (319176)
19
   05/27/2004
                    (362231)
20 06/23/2004
                    (362232)
21 07/28/2004
                    (362233)
22 08/25/2004
                    (362234)
23
   09/22/2004
                    (362235)
   10/29/2004
                    (387591)
24
25 11/29/2004
                    (387592)
26 12/07/2004
                    (339961)
27 12/30/2004
                    (387593)
28
   01/26/2005
                    (387594)
29 03/02/2005
                    (387589)
30 03/28/2005
                    (387590)
31 04/27/2005
                    (425308)
32 05/09/2005
                    (379952)
33
   06/01/2005
                    (425309)
34 06/21/2005
                    (425310)
35 07/21/2005
                    (425311)
36 08/26/2005
                    (445881)
37 09/28/2005
                    (445882)
38
   10/26/2005
                    (477869)
39 11/23/2005
                    (477870)
40
   12/29/2005
                    (477871)
41 01/26/2006
                    (477872)
42 04/10/2006
                    (504296)
43 04/10/2006
                    (504297)
44 07/05/2006
                    (466588)
45 07/17/2006
                    (486415)
46 07/24/2006
                    (488013)
47 05/21/2007
                    (555024)
```

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/31/2002 (214654)

Self Report? YES

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description:
Date: 01/31/2003

Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (214640)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description:

Failure to meet the limit for one or more permit parameter

Classification: Moderate

02/01/2003 (214641)Date:

Self Report? YES

Citation:

Citation:

Description:

Description:

30 TAC Chapter 305, SubChapter F 305.125(1)

Citation: TWC Chapter 26 26.121(a)[G]

Failure to meet the limit for one or more permit parameter Description:

Date: 03/27/2003 (247457)

Classification: Moderate Self Report?

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Classification: Moderate Self Report? NO

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: Description: NON-RPT VIOS FOR MONIT PER OR PIPE

NO Classification: Moderate Self Report?

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description:

Classification: Moderate Self Report? NO

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) NON-RPT VIOS FOR MONIT PER OR PIPE Description:

Classification: Moderate NO Self Report? Citation: 30 TAC Chapter 305, SubChapter F 305,125(1)

NON-RPT VIOS FOR MONIT PER OR PIPE Description: Self Report? Classification: Moderate NO

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

NON-RPT VIOS FOR MONIT PER OR PIPE Description: Classification: Moderate NO Self Report?

30 TAC Chapter 305. SubChapter F 305.125(1) Citation: Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Classification: Moderate Self Report? NO

30 TAC Chapter 305, SubChapter F 305.125(1)

NON-RPT VIOS FOR MONIT PER OR PIPE Description: Classification: Moderate

Self Report? NO 30 TAC Chapter 305, SubChapter F 305.125(1) Citation:

NON-RPT VIOS FOR MONIT PER OR PIPE Description: Self Report? NO Classification: Moderate

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description: Classification: Moderate Self Report? NO

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description:

Classification: Moderate Self Report? 30 TAC Chapter 305, SubChapter F 305.125(1) Citation:

NON-RPT VIOS FOR MONIT PER OR PIPE Description: Classification: Moderate NO Self Report?

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE

Description: Classification: Moderate Self Report?

NON-RPT VIOS FOR MONIT PER OR PIPE Description:

30 TAC Chapter 305, SubChapter F 305.125(1)

Classification: Moderate Self Report? NO 30 TAC Chapter 305, SubChapter F 305.125(1) Citation:

NON-RPT VIOS FOR MONIT PER OR PIPE Description: Self Report? NO Classification: Moderate

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE

Classification: Moderate Self Report? NO

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description:

Classification: Moderate Self Report? NO

30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description:

Classification: Moderate Self Report? NO 30 TAC Chapter 305, SubChapter F 305.125(1) Citation:

NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) NON-RPT VIOS FOR MONIT PER OR PIPE Description: Self Report? NO Classification: Moderate 30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description: Self Report? NO Classification: Moderate 30 TAC Chapter 305, SubChapter F 305.125(1) Citation: NON-RPT VIOS FOR MONIT PER OR PIPE Description: Self Report? NO Classification: Moderate Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) NON-RPT VIOS FOR MONIT PER OR PIPE Description: NO Classification: Moderate Self Report? 30 TAC Chapter 305, SubChapter F 305.125(1) Citation: Description: NON-RPT VIOS FOR MONIT PER OR PIPE Date: 03/31/2003 (319175)Self Report? YES Classification: Moderate Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter Description: 04/30/2003 Date: (319178)Self Report? YES Classification: Moderate 30 TAC Chapter 305, SubChapter F 305.125(1) Citation: TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter Date: 05/31/2003 (319180)Self Report? Classification: Moderate YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter Date: 07/31/2003 (319183)Self Report? YES Classification: Moderate Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter Description: 03/31/2004 Date: (319176)Self Report? YES Classification: Moderate 30 TAC Chapter 305, SubChapter F 305.125(1) Citation: TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter 12/06/2004 (339961)Date: Self Report? Classification: Minor 30 TAC Chapter 317 317.4(g)(4)(B)[G] Citation: Description: Failure to provide a back-up blower. Self Report? NO Classification: Moderate Citation: 30 TAC Chapter 305, SubChapter F 305,125(1) Failure to check the plant on a daily basis as required by Other Requirement # Description: NO Classification: Moderate Self Report? 30 TAC Chapter 305, SubChapter F 305,125(1) Citation: Failure to prevent an accumulation of sludge in the receiving ditch. Description: 07/27/2006 Date: Self Report? NO Classification: Moderate 30 TAC Chapter 305, SubChapter F 305.125(1) Citation: Description: Failure to prevent sludge from the wastewater treatment plant from being discharged into the ditch at the outfall.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
TRINITY @ WINDFERN LLC	§	
RN102916178	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0893-MWD-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Trinity @ Windfern LLC ("Trinity") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Trinity appear before the Commission and together stipulate that:

- 1. Trinity owns and operates a wastewater treatment plant associated with a mobile home park at 9401 Windfern Road approximately 300 feet south of Zaka Road and approximately 3 miles north of the intersection of Windfern Road and U.S. Highway 290 in Harris County, Texas (the "Facility").
- 2. Trinity has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of Tex. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
- 3. The Commission and Trinity agree that the Commission has jurisdiction to enter this Agreed Order, and that Trinity is subject to the Commission's jurisdiction.
- 4. Trinity received notice of the violations alleged in Section II ("Allegations") on or about May 26, 2007.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Trinity of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

- 6. An administrative penalty in the amount of Twelve Thousand Three Hundred Ninety Dollars (\$12,390) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Trinity has paid Six Thousand Three Hundred Seventy-Two Dollars (\$6,372) of the administrative penalty and Two Thousand Four Hundred Seventy-Eight Dollars (\$2,478) is deferred contingent upon Trinity's timely and satisfactory compliance with all the terms of this Agreed Order. The remaining amount of Three Thousand Five Hundred Forty Dollars (\$3,540) of the administrative penalty shall be payable by March 1, 2007. If Trinity fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Trinity to pay all or part of the deferred penalty.
- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Trinity have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that Trinity has implemented the following corrective measures at the Facility:
 - a. The sludge in the chlorine basin was removed by pumping on April 5, 2007;
 - b. Trinity flushed the lift pump and backwashed the solids back into the clarifier by April 12, 2007; and
 - c. Trinity submitted the missing records for the year 2005 including but not limited to discharge monitoring reports ("DMRs"), laboratory reports, annual sludge reports for 2005-2006, and the 2006 toxicity characteristic leaching procedure ("TCLP") test results.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Trinity has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Trinity is alleged to have:

1. Failed to collect effluent samples at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE § 319.5(b), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013509001, Effluent Limitations and Monitoring Requirements No. 1, as documented during an investigation conducted on March 27, 2007. Specifically, a review of records at the

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time of the investigation revealed 7 weekly sampling events in the months of March, April, May, and June, 2006 were not taken.

- 2. Failed to make available all discharge monitoring records for review, in violation of 30 TEX. ADMIN. CODE § 319.7(c), as documented during an investigation conducted on March 27, 2007. Specifically, the following records were not available for review at the investigation: DMRs for 2005, laboratory reports for 2005, annual sludge reports for 2005-2006, and the 2006 TCLP test results.
- Failed to operate and maintain the Facility to prevent the discharge and accumulations of sludge 3. violation of TEX. WATER CODE the receiving stream. in § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), and TPDES Permit No. WO0013509001, Permit Conditions 2.d., as documented during an investigation conducted on March 27, 2007. Specifically, sludge was noted in the roadside outfall ditch for approximately 200 feet downstream of the outfall. Samples taken from the outfall ditch contained a carbonaceous biochemical oxygen demand concentration of 159 milligrams per liter ("mg/L"), a total suspended solids concentration of 7,120 mg/L, a volatile suspended solids concentration of 3,030 mg/L, and an ammonia-nitrogen concentration of 4.8 mg/L.

III. DENIALS

Trinity generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Trinity pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Trinity's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Trinity @ Windfern LLC, Docket No. 2007-0893-MWD-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that Trinity shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order,
 - i. Implement a procedure whereby the effluent samples are being collected at the required frequency, as required by 30 TEX. ADMIN. CODE § 319.5; and

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- ii. Implement a procedure whereby the appropriate records are appropriately maintained, as required by 30 Tex. ADMIN. CODE § 319.7;
- b. Within 45 days after the effective date of this Agreed Order;
 - i. Submit documentation of the corrective actions taken to clean the receiving ditch; and
 - ii. Submit documentation on procedures taken to prevent the recurrence of any discharges of solids to the receiving ditch, as required by TEX. WATER CODE § 26.121.
- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 169 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Water Section Manager Houston Regional Office Texas Commission on Environmental Quality 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon Trinity. Trinity is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If Trinity fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Trinity's failure to comply is not a violation of this Agreed Order. Trinity shall have

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the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Trinity shall notify the Executive Director within seven days after Trinity becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Trinity shall be made in writing to the Executive Director. Extensions are not effective until Trinity receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against Trinity in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Trinity, or three days after the date on which the Commission mails notice of the Order to Trinity, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	3)26/2008 Date
attached Agreed Order on behalf of the	tand the attached Agreed Order. I am authorized to agree to the entity indicated below my signature, and I do agree to the terms her acknowledge that the TCEQ, in accepting payment for the such representation.
 timely pay the penalty amount, may result A negative impact on compliance Greater scrutiny of any permit ap Referral of this case to the Attorne penalties, and/or attorney fees, or Increased penalties in any future Automatic referral to the Attorne TCEQ seeking other relief as aut 	chistory; plications submitted; mey General's Office for contempt, injunctive relief, additional to a collection agency; enforcement actions; y General's Office of any future enforcement actions; and
Don Clowerts Name (Printed or typed) Authorized Representative of Trinity @ Windfern LLC	OWNER

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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